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***Mobilehomes
and Factory-
Built Housing
Sales and Use Taxes***

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FOREWORD

This pamphlet explains the application of the California Sales and Use Tax Law as it relates to “mobilehomes” and “factory-built housing”. It is intended as a general guide and summarizes the law and applicable regulations in effect at the time the pamphlet was printed as shown by the date on the front cover; however, statutory or regulatory changes may have occurred subsequent to the printing date.

In the case of any conflict between the text of this pamphlet and the law or regulations, the latter are controlling.

This pamphlet does not include reference to obligations under property tax laws, mobilehome registration laws, building permits, etc. For example, a mobilehome dealer is required to report the sale of a mobilehome to the assessor of the county where the mobilehome is to be installed, regardless of whether the mobilehome is subject to property tax or license fees. Questions regarding property tax should be directed to the county assessor. Questions regarding registration and licensing should be directed to the Department of Housing and Community Development. The Department of Housing and Community Development has published a pamphlet entitled “A Consumer’s Guide to Mobilehomes”, which outlines some of the current requirements for registration, licensing, installation, dealer reporting, etc.

While this pamphlet does address a wide spectrum of concepts and concerns relating to sales and use taxes on mobilehomes, it may not answer all your specific questions. If you are in doubt about how the Sales and Use Tax Law applies, please let us know. Requests for advice regarding a particular activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction. Requests should be mailed to the nearest State Board of Equalization office listed on the inside of the back cover of this pamphlet.

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“MOBILEHOME” DEFINED

A “mobilehome” as referred to in this pamphlet is a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system. A “dwelling unit” consists of one or more habitable rooms designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation. ***The definition of a mobilehome specifically excludes a recreational vehicle, commercial coach, or factory-built housing.***

MOBILEHOMES—REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY

Whether or not a mobilehome is classified as real property affects the application of sales and use tax to accessories and structural items sold with a mobilehome.

Generally, only mobilehomes placed on permanent foundation systems qualify as real property. Mobilehomes not placed on permanent foundations remain items of personal property.

Prior to October 1, 1984, mobilehomes whose annual vehicle license fees became delinquent for a period of 120 days or more, were automatically subject to property tax. Since that date, however, provisions have been made to allow for reinstatement to the annual vehicle license fee system provided certain conditions are met. Any questions concerning reinstatement to the vehicle license fee system should be directed to your local Department of Housing and Community Development office.

Only those structural and accessory items attached to a mobilehome on a permanent foundation ***or*** which are attached to land are real property. Consequently, it is necessary to distinguish between a permanent and non-permanent foundation.

Permanent Foundation Defined

A permanent foundation system is an assembly of materials constructed below, or partly below grade, not intended to be removed from its installation site, which is designed to support the structure, and engineered to resist the imposition of external natural forces such as wind, rain, snow, etc. To be classified as being on a permanent foundation, the mobilehome must be fastened or pinned to the foundation (Administrative Code, Title 25 which implements Health and Safety Code 18551).

Non-Permanent Foundation Defined

A non-permanent foundation is an assembly of materials, usually steel or cement and block commonly referred to as piers or jacks and pads and is considered to be a temporary type of foundation.

APPLICATION OF TAX—NEW MOBILEHOMES

SALES OF NEW MOBILEHOMES—NONRESIDENCE USE

The dealer is a retailer of a new mobilehome when it is sold for use other than occupancy as a residence. Consequently, tax applies to the full selling price of the mobilehome to the customer.

SALES OF NEW MOBILEHOMES—RESIDENCE USE

A mobilehome dealer is the “retailer-consumer” of any new mobilehome sold to a customer for occupancy as a residence, if the transaction would otherwise have been subject to sales tax and the mobilehome is thereafter subject to local property taxation. All new mobilehomes sold for residence use on or after July 1, 1980, are subject to local property tax whether sold to the customer for installation on a permanent or non-permanent foundation.

As the "retailer-consumer", the dealer is required to declare and pay tax on 75 percent of the dealer's purchase price of the mobilehome. This percentage applies to all items which the dealer has purchased and affixed as an integral part of the mobilehome prior to sale, or pursuant to the contract of sale, such as carpeting, wall paneling, room partitions, and built-in appliances. Draperies and freestanding refrigerators and ranges are also considered an integral part of a mobilehome. If these items are not included in the price of the mobilehome when acquired by the retailer-consumer, they must be included when computing the total amount subject to tax. The retailer-consumer's purchase price of such items must also include any labor charges for affixing the property when such installation is performed by other than the retailer-consumer.

In a transaction which qualifies for the special tax computation, the applicable tax is the use tax imposed upon the dealer as the consumer. The sale of a mobilehome by a dealer who is a retailer-consumer to their customer is exempt from sales tax. The retailer-consumer, therefore, should not separately state to their customer any reimbursement for the use tax.

CERTIFICATION OF EXEMPTION

To qualify for this special tax treatment, the dealer is required to secure and retain written certification at the time of the sale that the mobilehome will be installed for occupancy as a residence. The following is a form of certification approved by the Board:

CERTIFICATION OF EXEMPTION MOBILEHOME RESIDENCE PURCHASE

I hereby certify that the mobilehome that I **(name of purchaser)** am purchasing from **(name of retailer-consumer)** is being purchased for occupancy as a residence and that it will only be used for this purpose. I further certify and agree that if the property purchased under authority of this certificate is used for any other purpose, I shall be liable for payment of tax measured by the entire sales price or gross receipts from the sale to me less an amount equal to 75 percent of the sales price of gross receipts from the sale of the mobilehome to the retailer.

Date Certificate Given: _____

Signed By: _____
(NAME OF PURCHASER)

Capacity: _____

Description of Property: _____

If a purchaser issues such certification to a dealer, and subsequently uses the property for other than a residence, the purchaser shall be liable for payment of tax measured by the purchaser's entire purchase price of the mobilehome, less 75 percent of the sales price paid by the dealer to the supplier for the mobilehome.

DATE OF SALE

Generally, the tax applies upon the date of the sale of the property to the buyer. A sale takes place on the date of actual transfer of title to the property to the buyer or at a time possession is transferred to the buyer where title is retained by the dealer solely as security for the payment of the purchaser's price.

Transactions involving installations by dealers upon permanent foundation systems are subject to tax upon installation. For purposes of such a transaction, installation shall be considered to be complete upon the date of delivery of possession of the mobilehome to the buyer or upon the date of close of escrow for the sale, whichever event first occurs.

ACCESSORIES AND OTHER ITEMS NOT AFFIXED TO REAL PROPERTY

A mobilehome dealer is the retailer of certain items which are not an integral part of the mobilehome, such as furniture. Sales of such items by dealers are subject to sales tax on their full selling price to the consumer.

The dealer is also the retailer of other accessories if the dealer does not affix them to a mobilehome situated on a permanent foundation or does not affix them directly to realty. Such accessory items include:

Window awnings

Skirting

Air conditioning units

Cabanas

The dealer must report sales tax based on the retail sales price of such items.

For sales of items for which the dealer is considered to be a retailer, sales tax reimbursement can be collected from the customer.

If the dealer acquires furniture and accessories for the purpose of using them to enhance the sale of a mobilehome, the dealer is making a use of the furniture and accessories and may not purchase the furniture and accessories for resale. This situation could occur when a dealer furnishes a model mobilehome to enhance its appearance for sale.

Where the dealer later sells the same furniture and accessories which were used to enhance the sale of a mobilehome, the dealer is a retailer of those items and tax applies to the full retail sales price without any deduction or credit for the tax which the dealer paid when they purchased the furniture or accessories.

If the dealer, in the regular course of business, includes furniture or accessories with the sale of a mobilehome, and the dealer does not use the furniture or accessories prior to their sale other than for purposes of demonstration and display for purposes of sale the dealer is a retailer of the furniture or accessories and may acquire them for resale. An example would be when a dealer, on a continuing basis, sells mobilehomes in a furnished condition. The dealer must report sales tax based on the retail sales price of such items.

The dealer should separately state the selling price of the furniture or accessories.

Since a dealer's tax liability on the sale of a mobilehome is computed based on 75 percent of their purchase price of the mobilehome, the dealer should be careful to exclude from that purchase price the cost of any of the above noted accessories that are taxable at the full retail sales price.

ACCESSORIES AND OTHER ITEMS AFFIXED TO REALTY

Under the provisions of Regulation 1521, "Construction Contractors", a seller who both furnishes and affixes mobilehome accessories or other items as improvements or additions to land, or to a mobilehome which rests on a permanent foundation, is a construction contractor. See Regulation 1521, and "Mobilehome and Accessories Installed as Real Property" for the application of tax under such conditions.

SALES OF MOBILEHOMES BY MANUFACTURERS

If a manufacturer should sell a new mobilehome directly to a purchaser for occupancy as a residence without going through a licensed dealer, the manufacturer becomes a "retailer-consumer". As a retailer-consumer, the manufacturer is required to declare and pay tax measured by an amount equal to 75 percent of the selling price at which a similar mobilehome, ready for installation, would be sold by the manufacturer to a dealer who is a retailer-consumer in this state.

PURCHASES OF NEW MOBILEHOMES BY DEALERS

ISSUANCE OF RESALE CERTIFICATES

Prior to September 19, 1985, mobilehome dealers were not allowed to issue a resale certificate for purchases of mobilehomes which they installed on permanent foundation systems.

Effective September 19, 1985, however, a dealer of mobilehomes may issue a resale certificate to their supplier for those mobilehomes acquired as a retailer or a retailer-consumer.

USE OF MOBILEHOME BY DEALER

A new mobilehome purchased by a dealer without tax under a resale certificate that is used by the dealer for purposes other than as a residence is subject to use tax in accordance with Regulation 1669, "Demonstration, Display, and Use of Property Held for Resale—General" (See page 13 for ordering information). The dealer is the consumer of the mobilehome, and the use tax applies to the dealer's full purchase price if the mobilehome is used primarily for such other use, even though it may also be incidentally used for demonstration and display. The dealer should include and report tax on the cost of such a mobilehome with their return for the period in which the mobilehome is used by the dealer as an office or other facility.

OUT-OF-STATE PURCHASES OF NEW MOBILEHOMES

FROM DEALERS

If a new mobilehome is purchased from an out-of-state retailer for use as a residence in California, the purchaser is the consumer and the use tax is thus imposed on the purchaser based on 75 percent of the selling price of the mobilehome to that out-of-state retailer. Where there is no satisfactory evidence of the out-of-state vendor's purchase price, it shall be presumed that 60 percent of the sales price to the purchaser is the taxable measure.

The use tax applies to the full purchase price of a new mobilehome purchased from an out-of-state dealer which is to be used other than as a residence.

FROM MANUFACTURERS

A new mobilehome purchased directly from an out-of-state manufacturer by a consumer for use as a residence in California is subject to tax on 75 percent of the amount for which a similar mobilehome would be sold by the manufacturer to a dealer. In the absence of contrary evidence, the taxable measure will be presumed to be 75 percent of the consumer's purchase price of the mobilehome.

The use tax applies to the full purchase price of a new mobilehome purchased from an out-of-state manufacturer which is to be used for a purpose other than as a residence.

STATUTORY EXEMPTIONS

The provisions of the statutes which define the retailer of mobilehomes as the retailer-consumer are only applicable to sales which would otherwise be subject to sales tax. Accordingly, sales of mobilehomes which are otherwise exempt by statute, such as sales in interstate commerce or sales to the United States Government, may be properly claimed as exempt sales on the seller's sales and use tax returns.

SALES IN INTERSTATE COMMERCE

The sale of a mobilehome can be claimed as an exempt sale in interstate commerce if the sale meets all of the following conditions:

1. The mobilehome, pursuant to the contract of sale, is required to be, and is shipped to a point outside this state by the retailer. Shipment must be made by means of:
 - a. facilities operated by the retailer; or
 - b. delivery by the retailer to a carrier, customs broker, or forwarding agent for shipment to such out-of-state point.

2. The mobilehome must not be sold for use in this state, and,
3. Evidence must be retained to support the claimed exemption. The supporting documentation should include:
 - a. documents supporting delivery or shipment of the mobilehome by the seller to the out-of-state point, such as a bill of lading from a common carrier. If the retailer ships the mobilehome using their own facilities, supporting documentation of delivery outside the state could be in the form of expense receipts such as gasoline, lodging, meals, etc.; **and**
 - b. evidence of the customer's out-of-state address and that the mobilehome was purchased for use outside California.

SALES TO THE UNITED STATES GOVERNMENT

Tax does not normally apply to sales and leases to:

- The United States or its unincorporated agencies and instrumentalities;
- Any incorporated agency or instrumentality of the United States wholly owned by either the United States or a corporation wholly owned by the United States;
- The American Red Cross, its chapters and branches.

All exempt sales to the United States Government must be substantiated and the supporting documentation to be retained should include the government purchase order or remittance advice.

The United States Government exemption does not extend to construction contracts with the United States Government wherein pursuant to the contract, a manufacturer or dealer furnishes a mobilehome and affixes it to realty. See "Construction Contracts and Mobilehomes".

SALES TO INDIANS LIVING ON RESERVATIONS

The sale of a new mobilehome to an Indian who resides on the reservation is not subject to tax if the property is actually delivered on the reservation and ownership (title) transfers to the Indian on the reservation.

Tax is generally not applicable when a mobilehome is delivered to an Indian on a reservation by the facilities of the retailer. However, if delivery is made by a carrier, tax will apply unless the retailer and the Indian have agreed that title to the mobilehome will not pass to the Indian until delivery is actually made on the reservation. This agreement must be made prior to the delivery of the mobilehome.

All claimed exempt sales must be supported by documentary evidence which should include:

- Records showing the name and address of the Indian buyer as well as some documentation showing that the Indian is entitled to receive services from the United States Department of the Interior;
- Sufficient documentation that delivery of the mobilehome was made to the Indian on the reservation.

MOBILEHOMES AND ACCESSORIES INSTALLED AS REAL PROPERTY

SALES TO CONSTRUCTION CONTRACTORS

A dealer or manufacturer is considered to be the retailer-consumer of a mobilehome sold to a construction contractor who will affix the mobilehome on a permanent foundation for occupancy as a residence. The dealer's or manufacturer's tax liability is as follows:

- **If a manufacturer** should sell a mobilehome to a construction contractor without going through a licensed dealer, the manufacturer must report and pay the use tax computed on 75 percent of the sales price for which a similar mobilehome, ready for installation, would be sold by that manufacturer to a dealer who is a retailer-consumer in this state.

- **When a dealer** sells a mobilehome to a construction contractor, the dealer must report and pay use tax measured by 75 percent of his/her own purchase price of the mobilehome including the cost of any accessory items that are an integral part of the mobilehome being sold.

A construction contractor who is not a mobilehome dealer may not issue a resale certificate for the purchase of a mobilehome which is to be installed on a permanent foundation.

DEALERS AS CONSTRUCTION CONTRACTORS

Effective September 19, 1985, if the purchasing construction contractor is also a licensed mobilehome dealer, the construction contractor is a retailer-consumer with respect to the sale of the mobilehome, and the contractor may issue a resale certificate for the purchase of the mobilehome. As a retailer-consumer, the contractor must report tax on 75 percent of the cost of the mobilehome on the return for the period during which the mobilehome is installed on a permanent foundation. The percentage applies to all items which become an integral part of the mobilehome, such as built-in appliances, carpeting, draperies, freestanding refrigerator and range, etc.

Prior to September 19, 1985, a construction contractor could not issue a resale certificate for the purchase of a mobilehome which was to be installed on a permanent foundation, even if the contractor was a licensed mobilehome dealer.

ACCESSORIES AND IMPROVEMENTS OR ADDITIONS TO REALTY

The construction contractor is the retailer of accessory items which are not an integral part of the mobilehome as discussed in "Accessories and Other Items Not Affixed to Real Property".

Items of tangible personal property, such as skirting, air conditioners, window awnings, or carpeting that are furnished by a contractor and affixed to a mobilehome situated on a permanent foundation or directly affixed to realty; and tangible personal property furnished in repairing a mobilehome situated on a permanent foundation are taxable in accordance with Regulation 1521, "Construction Contractors" (See page 13 for ordering information). Similarly, landscaping, concrete slabs, fencing, and items such as carports, patio covers, screened rooms, cabanas and decks, which are attached to realty by auger devices or cement, are also taxable as materials or fixtures in accordance with Regulation 1521.

Generally, the installing contractor cannot avoid liability for the sales or use tax by accepting a resale certificate for materials or fixtures furnished and affixed to real property for a dealer, prime contractor or others. The following example is offered to illustrate the proper application of the tax.

Example. A dealer sells a mobilehome to a customer including an awning and arranges for an awning contractor to furnish and install the awning.

Assuming the contract for installation of the awning was a lump-sum contract and that the awning is actually affixed to realty by augers or cement (typically carports, patio covers), the contractor would be responsible for reporting the tax measured by their cost price of the awning, although the mobilehome may or may not be situated on a permanent foundation. The contractor cannot accept a resale certificate from the dealer for the installed awning.

There are numerous variations that can significantly affect the contractor's tax liability. The contractor is therefore urged to study Regulation 1521, "Construction Contractors". Additionally, Pamphlet No. 9, Tax Tips for Construction and Building Contractors, contains further information and may be obtained at any Board office.

MANUFACTURERS AS CONSTRUCTION CONTRACTORS

If a manufacturer should perform a construction contract involving the affixing of a new mobilehome to realty for a person other than the U.S. Government, without going through a licensed dealer, the manufacturer is the consumer of the materials and the retailer of any fixtures furnished and installed as provided in Regulation 1521. If the contract is with the United State Government, the manufacturer is the consumer of the materials and fixtures, and the retailer of the furniture and other unaffixed accessories sold with the mobilehome.

SEPARATE AND SPECIAL CHARGES

TRANSPORTATION CHARGES

Transportation charges for shipping mobilehomes from the supplier to the dealer are not included in the amount subject to tax if the charges are separately stated and otherwise exempt as provided in Regulation 1628, "Transportation Charges".

Where shipment is by the supplier's own facility without a separate title provision, or where the sale is for a delivered price, the dealer must include the transportation charge in their cost when computing the 75 percent which is subject to tax.

Where a mobilehome is not sold for occupancy as a residence or otherwise does not qualify the seller as a retailer-consumer, transportation charges to the customer may be subject to sales tax. See Regulation 1628.

SETUP CHARGES

The setup of a mobilehome ordinarily includes such services as site preparation, placing of supports, joining sections, leveling, carper installation, etc. The setup may be done by the retailer or another person. Tax is applicable as follows:

When affixing carpets supplied with a mobilehome

- Tax does not apply to the cost of or the charge for labor when the installation of the carpet is performed by the mobilehome dealer as a retailer-consumer of the mobilehome;
- The labor for installing the carpet is considered part of the cost of the mobilehome to the retailer-consumer when the carpeting is installed in a new mobilehome not on a permanent foundation and the installation is done by someone other than the retailer-consumer. In this case, the charge to the retailer-consumer for this service must be included in the amount that is 75 percent taxable; and
- Charges for labor to install carpeting in a mobilehome already on a permanent foundation are not taxable. (See "Accessories and Improvements or Additions to Realty".)

When Joining Sections

- Tax does not apply to the charge for or the cost of labor to join sections of a mobilehome when the work is performed by the dealer acting as the retailer-consumer.
- The labor charged to a dealer (retailer-consumer) for joining sections of a mobilehome not affixed to realty and which is sold for occupancy as a residence, when the labor is performed by other than the retailer-consumer, is considered part of the retailer-consumer's cost of the mobilehome, and, the retailer-consumer must include 75 percent of that charge in their reported measure of tax.

Miscellaneous

- Jacks and Pads—The dealer is the retailer of jacks and pads used as supports for mobilehomes, and the sales tax applies to the full retail selling price to the customer.
- Other Services—The charges for or the cost of other services included in setting up mobilehomes are ordinarily exempt from tax.

ESCROW FEES

Separately stated charges for escrow fees for the sale of a new or used mobilehome are not taxable.

APPLICATION OF TAX—USED MOBILEHOMES

DEFINITION—USED MOBILEHOME

A used mobilehome means a mobilehome that was previously sold and registered or titled with the Department of Housing and Community Development, or with an appropriate agency or authority, or any other state, District of Columbia, territory or possession of the United States or a foreign state, province, or country.

SALES OF USED MOBILEHOMES SUBJECT TO ANNUAL LICENSE FEES

In general, tax applies to the gross receipts from the sale of a used mobilehome, unless otherwise exempt, if, at the time of the sale or use, the mobilehome is subject to annual license fees under the Health and Safety Code.

Effective January 1, 1986, "gross receipts" or "sales price" of a used mobilehome which is subject to annual license fees, means the retail value of the used mobilehome as determined in accordance with a current recognized value guide, whenever the sale is:

- through a person licensed under the Health and Safety Code as a dealer and not on the dealer's own account; or
- through a licensed real estate broker acting pursuant to Section 10131.6 of the Business and Professions Code; or
- whenever a purchaser of a used mobilehome is required to pay the use tax to the Department of Housing and Community Development. (Private party transaction.)

A "current recognized value guide" means:

- (1) the Kelly Blue Book Manufactured Housing and Mobilehome Guide, or
- (2) the National Automobile Dealer Association's (NADA) Mobilehome Manufactured Housing Appraisal Guide, which covers the particular period in which the sale, storage, use or other consumption occurs.

If the value guide does not specify the model or manufacturer of a used mobilehome, the value shall be established by reference to the highest value in the value guide according to age and size, or the actual sales price, whichever is less.

If the actual sales price of a used mobilehome is less than the current value specified in the value guide, the sales price shall be based on the actual sales price of the mobilehome as evidenced by the purchase documents.

"Actual sales price" means the total contract price, including, but not limited to, the value of the mobilehome, in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings, or other items not part of the mobilehome, and documentation fees.

SALES OF USED MOBILEHOMES SUBJECT TO PROPERTY TAXES

The Sales and Use Tax Law provides an exemption from sales and use tax for sales of used mobilehomes if they are subject to local property taxation. Used mobilehomes are subject to local property taxation in all of the following instances:

- the mobilehome was originally sold new on or after July 1, 1980;
- the mobilehome was originally sold new prior to July 1, 1980 and was subsequently transferred to the property tax rolls; or
- the mobilehome is situated on a permanent foundation.

SALES BY DEALERS

When a dealer, acting on its own account and not as a broker, sells a used mobilehome, not subject to property taxation, the dealer is a retailer and tax applies to the retail sales price of the used mobilehome. The retail sales price is the total price charged for the mobilehome, including separately stated charges for awnings, skirting, and other items of tangible personal property, provided these items are not affixed to a mobilehome situated on a permanent foundation or directly affixed to realty.

However, if a used mobilehome is sold in-place by a dealer, any separately stated values of existing real property improvements such as cement and landscaping or separately stated in-place location value are not subject to tax.

SALES WITHIN A FAMILY

Neither sales tax nor use tax applies to the sale or use of mobilehomes sold by the parent, grandparent, child, grandchild, or spouse of the purchaser, or by the brother or sister of the purchaser if both are under the age of 18 and are related by blood or adoption, provided the seller is not engaged in the business of selling the type of property for which the exemption is claimed. Claimants of this exemption must submit satisfactory evidence of relationship.

PAYMENT OF TAX BY PURCHASER

Purchasers of mobilehomes required to be registered annually under the Health and Safety Code, and sold by a retailer who is not a licensed manufacturer, manufacturer branch, dealer, dealer branch, distributor, distributor branch, representative, or representative branch, must pay tax to the Department of Housing and Community Development, acting for and on behalf of the Board, at the time of making application for registration except:

1. when the applicant establishes that the tax is inapplicable; or
2. when the applicant furnishes to the Department of Housing and Community Development a use tax exemption or tax clearance certificate issued by the Board.

If the purchaser wants immediate action on an application for registration when no tax is due, the purchaser may pay the use tax to the Department of Housing and Community Development at the time of registration and later apply to Board of Equalization for a refund of the amount paid.

BAD DEBTS

Where the dealers are retailers, bad debt losses incurred are allowable in the same manner as bad debts from other types of retail sales as explained in the next paragraph and Regulation 1642, "Bad Debts".

Some examples of sales where dealers are retailers are sales of new mobilehomes sold for other than occupancy as a residence, sales of furniture, and sales of accessories which are not affixed to realty. In such cases, the dealer may claim a deduction for bad debts found to be uncollectible and charged-off for income tax purposes.

Should the uncollectible amounts include exempt items, such as interest charges, and/or items in which the dealer is a consumer or retailer-consumer as well as taxable items, a bad debt deduction may be claimed only with respect to the unpaid amount upon which the dealer is the retailer and which the tax has been paid to the state. In determining this amount, all payments and credits to the accounts must be apportioned to the taxable and nontaxable elements which make up the amount the purchasers agreed to pay.

If any amounts for which the bad debts have been deducted on the sales tax returns are subsequently collected in full or in part, the amount(s) so collected must be included in the first return filed after the funds are received.

If a repossession of merchandise for which the dealer is a retailer is involved, the value of the repossessed merchandise must be deducted in computing the allowable credit. See Regulation 1642 regarding the formula used in determining the amount of allowable credit on repossession losses.

When dealers of mobilehomes are retailer-consumers or consumers of mobilehomes, accessories and other items which they sell, **there is no basis for claiming any bad debts incurred on such transactions.** Some common examples where the dealer is either the **retailer-consumer** or **consumer**, and cannot claim bad debt deductions follow:

- new mobilehomes sold for occupancy as a residence on or after July 1, 1980;
- sales of accessories such as carpeting affixed as an integral part of a mobilehome prior to its sale when the mobilehome is sold for occupancy as a residence; and
- sales of accessories such as window awnings affixed to a mobilehome situated on a permanent foundation or when the accessories are affixed directly to realty.

LEASES OF MOBILEHOMES

FIRST LEASED PRIOR TO JULY 1, 1980

Generally, where a new mobilehome was acquired without the payment of sales or use tax and first leased prior to July 1, 1980, the lease is considered a continuing “sale” and “purchase” and the tax is due, measured by the periodic lease receipts. However, if the new mobilehome becomes subject to property taxation, its lease thereafter is exempt from the sales and use tax.

A mobilehome first sold new prior to July 1, 1980, and not subject to property tax may be leased without incurring tax liability on the periodic lease receipts, provided to mobilehome is leased in substantially the same form as acquired, and the lessor paid tax when the mobilehome was purchased, or timely reported the use tax on the purchase price.

FIRST LEASED ON OR AFTER JULY 1, 1980

No tax is due on the receipts from the lease of a mobilehome that is first leased new on or after July 1, 1980 for occupancy as a residence. However, tax applies to 75 percent of the lessor’s supplier’s purchase price of the mobilehome.

If the lessor has withdrawn the mobilehome from an inventory purchased without tax for resale, the lessor is responsible for reporting and paying the tax. Where there is no evidence of the supplier’s purchase price of that mobilehome, the lessor may report the tax measured by 60 percent of their own purchase price from the supplier. However, if the manufacturer is the supplier, the tax is measured by 75 percent of the selling price to the lessor.

The full selling price of a new mobilehome to the lessor is taxable if the mobilehome is leased for use other than occupancy as a residence.

The lease of any used mobilehome which was first sold new in this state on or after July 1, 1980 is exempt from the sales and use tax.

FACTORY-BUILT HOUSING

DEFINITION

Factory-built housing (Regulation 1521.4 “Factory-Built Housing”, see page 13 for ordering information) includes only those units approved by the Department of Housing and Community Development or by a local building authority under contract with the Department. State insignias are issues by the Department of Housing and Community Development and attached the each approved unit.

Factory-built housing includes “modular housing”, “sectionalized housing”, “modular”, “utility”, or “wet cores”; and “materials and fixtures” as defined in Regulation 1521 which are sold or purchased as a part of the factory-built housing package.

Factory-built housing does not include a “mobilehome”; “precut housing packages”, where more than 50 percent of the package consists of precut lumber only; “panelized construction”, which will not form a complete housing structure; materials, fixtures, or other components which are not sold or purchased as a part of the factory-built housing package; “freestanding appliances”; and any other furnishings (except wall-to-wall carpet.)

FACTORY-BUILT HOUSING DISTINGUISHED FROM MOBILEHOMES

Because of statutory requirements, the definition of a mobilehome and the definition of factory-built housing differ materially. Therefore, the application of tax to factory-built housing must be considered separately from the application of tax to mobilehomes.

GENERAL APPLICATION OF TAX

Tax applies to 40 percent of the sales price of factory-built housing sold directly to a consumer for use in erecting or remodeling a building on land and used for residential dwelling or as an institution for resident or patient care. A retailer who makes retail sales of factory-built housing claimed to be subject to tax measured by 40 percent of the purchase price, must obtain from the consumer a signed "60 percent exclusion certificate". See Regulation 1521.4. The certificate must be retained by the retailer to support such sales.

If any other use is made of the factory-built housing, tax applies to the full selling price, or to 60 percent of the sales price if purchased tax-paid with tax measured by 40 percent of the sales price.

MANUFACTURERS AS CONSTRUCTION CONTRACTORS OF FACTORY-BUILT HOUSING

Where a manufacturer contracts to furnish and install factory-built housing, they are the consumer of the materials used and the retailer of fixtures which they install, and the tax applies to them as a construction contractor in accordance with Regulation 1521.

Regulation 1521, "Construction Contractors", also governs the application of tax to any and all materials used while installing the factory-built housing and also to any fixtures installed in or on the structure.

SAMPLE FACTORY-BUILT HOUSING TRANSACTIONS

Transaction A—A dealer purchases factory-built housing (FBH) from a manufacturer. The dealer will either sell or lease the completed house for use as FBH. The installation is made by the dealer on either their realty or on a customer's realty.

In this transaction the manufacturer is the retailer of FBH. In accordance with Regulation 1521.4, Paragraph (c) the manufacturer must report and pay sales tax measured by 40 percent of the selling price to the dealer. The manufacturer must obtain a 60 percent exclusion certificate from the dealer. The subsequent sale or lease by the dealer of FBH which is affixed to realty is a real property transaction, and not a sale of tangible personal property.

Transaction B—A manufacturer sells FBH to a dealer who will resell it to a customer. The installation is made by the customer on their own realty for use as FBH.

In this transaction the sale by the manufacturer is an exempt sale for resale. The dealer is the retailer and must report and pay sales tax measured by 40 percent of the dealer's selling price to the customer. The dealer must obtain a 60 percent exclusion certificate from the customer.

Transaction C—A manufacturer furnishes and installs FBH for a customer on the customer's realty.

In this transaction Regulation 1521.4 does not apply. This is taxed under Regulation 1521, Paragraph (c)(3). The manufacturer is the consumer of the materials used in building and installing the FBH and the retailer of the fixtures. Tax applies as provided in Regulation 1521, Paragraph (b).

ITEMS NOT PART OF FACTORY-BUILT HOUSING

The installing contractor is the retailer of the following items which are not factory-built housing even if they are included in the factory-built housing package: freestanding appliances, loose rugs, draperies, freestanding cabinets, furniture or furnishings. Tax applies to gross receipts from sales of these items.

FACTORY-BUILT SCHOOL BUILDINGS

For information on factory-built school buildings, please refer to Regulation 1521, "Construction Contractors," and to Pamphlet No. 9, "Construction and Building Contractors."

SALES TAX REIMBURSEMENT

Although you are liable for the sales tax on taxable retail sales made by you, the Civil Code provides that the question of tax reimbursement is a matter of agreement between the retailer and the purchaser. It shall be presumed that the parties agreed to the addition of sales tax if:

- the agreement of sale expressly provides for such addition of sales tax reimbursement;
- sales tax reimbursement is shown on the sales check or other proof of sale; or
- the retailer posts on the business premises in a location visible to purchasers, or includes on a price tag or in an advertisement directed to purchasers, a notice that reimbursement for sales tax will be added to the sales price of all items or certain items, whichever is applicable.

Collection of tax reimbursement which is greater than the amount of tax imposed upon a transaction is excess tax reimbursement to the extent that it exceeds the taxpayer's own tax liability on the transaction. Such excess tax reimbursement must be returned to the customer or paid to the state.

Sales tax reimbursement schedules covering sales up to \$100 are prepared by the Board of Equalization pursuant to Civil Code Section 1656.1. These are available from our website and our Information Center. (See page 13 for ordering information.)

RECORDS

WHAT RECORDS MUST BE KEPT?

You are required by the Sales and Use Tax Law to keep adequate records showing:

- your gross receipts from sales or leases of tangible personal property, whether you regard the receipts as taxable or nontaxable;
- all deductions allowed by law and claimed in filing returns; and
- the total purchase price of all tangible personal property purchased for sale, consumption, or lease.

These records must include:

- the normal books of account;
- all bills, receipts, invoices, orders, contracts, or other documents of original entry supporting the entries in the books of account;
- certificates of exemption or exclusion as described elsewhere in this pamphlet; and
- all schedules or working papers used in connection with the preparation of tax returns.

Failure to maintain accurate records will be considered evidence of negligence or intent to evade the tax, and may result in penalties.

Representatives of the Board of Equalization may examine your books, papers, records, and other documents to verify the accuracy of any return made, or, if no return is made, to determine the amount of tax you must pay.

LOCAL SALES AND USE AND DISTRICT TAXES

With certain exceptions, all of the provisions of the State Sales and Use Tax Law and regulations adopted thereunder are applicable to state-administered local sales and use taxes and to state-administered transactions (sales) and use taxes imposed by special taxing districts. Local taxes are effective statewide while district taxes are effective only in areas that have enacted district tax ordinances. The overall tax rate is a combination of state and local sales and use taxes and where enacted, district taxes. See Regulation 1821 which contains general information on district taxes.

FOR MORE INFORMATION

GENERAL TAX QUESTIONS

If you have a general tax question, please call our toll-free number and speak with a Customer Service Representative. Representatives are available weekdays from 8:00 A.M. to 5:00 P.M., except State holidays. Please call:

800-400-7115 TDD/TTY 800-735-2929

Assistance is available in languages other than English.

QUESTIONS REGARDING YOUR ACCOUNT

Please call the office that maintains your records. The name and telephone number of the appropriate office is printed on your tax returns. Field office telephone numbers are provided on page 15.

TO VERIFY A SELLER'S PERMIT NUMBER — RESALE CERTIFICATES

If you wish to verify the seller's permit number for a business that gives you a resale certificate for their purchase, you may use our interactive service on the Internet (see next page), or call us toll free at 1-888-225-5263, seven days a week. Please have on hand the seller's permit number you wish to verify, the business name, business address, and business owner's name.

FAX-BACK SERVICE

Our fax-back service, which allows you to order selected forms and publications, is available 24 hours a day. Call 1-800-400-7115 and choose the fax option. We'll fax your selection to you within 24 hours.

PUBLICATIONS AND REGULATIONS

To obtain copies of forms, publications, and regulations, you may:

Call our Information Center. A Customer Service Representative will help you during working hours. If you know the name or number of the document you need, you can call outside working hours and leave a recorded message. Certain documents are also available on our fax-back service, described above.

Send a fax request. You can fax a request to 916-322-2015.

Use the Internet. Certain regulations and publications are available on our Internet site. See next page.

Regulations

1521	<i>Construction Contractors</i>
1521.4	<i>Factory-Built Housing</i>
1610.2	<i>Mobilehomes and Commercial Coaches</i>
1628	<i>Transportation Charges</i>
1642	<i>Bad Debts</i>
1668	<i>Sales for Resale</i>
1669	<i>Demonstration, Display, and Use of Property Held for Resale – General</i>
1698	<i>Records</i>
1821	<i>Forward – District Taxes</i>

Publications

You may find the following publications helpful. The letters (S, K, V, and C) indicate that the publication is available in Spanish (S), Korean (K), Vietnamese (V), Farsi (F) or Chinese (C).

9	<i>Tax Tips for Construction and Building Contractors</i>
17	<i>Appeals</i>
44	<i>District Taxes</i>
51	<i>Guide to Board of Equalization Services (C,K,S,V)</i>
61	<i>Sales and Use Taxes: Exemptions and Exclusions</i>
70	<i>The California Taxpayer's Bill of Rights (C,K,S,V)</i>
73	<i>Your California Seller's Permit (C,F,K,S,V)</i>
74	<i>Closing Out Your Seller's Permit (C,S)</i>
75	<i>Interest and Penalty Payments</i>
76	<i>Audits (F,K,S)</i>

TAX INFORMATION BULLETIN

As a registered seller, you also receive the quarterly *Tax Information Bulletin*, which includes articles on the application of law to specific types of transactions, announcements regarding new and revised publications, and other articles of interest to sellers. The bulletin is mailed with your sales and use tax return(s). If you file only once a year and would like to receive all four bulletins, please write to the following address and ask to be added to Mailing List #15: Mail Services Unit, MIC:12; Attn: Addressing Systems; State Board of Equalization; P.O. Box 942879; Sacramento, CA 94279-0012.

INTERNET — WWW.BOE.CA.GOV

We maintain the following information on our Internet site: sales and use tax rates by county, *Business Taxes Law Guide* (laws and regulations), Board field office addresses and telephone numbers, Taxpayers' Bill of Rights Hearings, pending regulations, publication order forms, an agency profile, and Board Member biographies. You can also verify seller's permit numbers on-line and download copies of selected regulations and publications. Enter <http://www.boe.ca.gov>.

WRITTEN ADVICE

For your protection, it is best to get tax advice in writing. You may be relieved of tax, penalty, or interest charges that are due on a transaction if the Board determines that it gave you incorrect written advice regarding the transaction and that you reasonably relied on that advice in failing to pay the proper amount of tax. For this relief to apply, a request for advice must be in writing, identify the taxpayer to whom the advice applies, and fully describe the facts and circumstances of the transaction. Please send your request to the Board office that handles your account.

Written tax advice is specific to individual taxpayers. You cannot obtain tax relief by relying on a written opinion given to another business, even if your transactions are similar. In addition, tax relief is not available if you incorrectly apply tax based on Board advice given in person or over the telephone.

SALES TAX CLASSES

Some local Board offices offer basic sales and use tax classes. If you're interested, call ahead to find out whether your local office conducts a class for beginning sellers.

TAXPAYERS' RIGHTS ADVOCATE

If you have been unable to resolve a disagreement with the Board, or if you would like to know more about your rights under the Sales and Use Tax Law, please contact the Taxpayers' Rights Advocate office:

Taxpayers' Rights Advocate Office, MIC:70
State Board of Equalization
P.O. Box 942879
Sacramento CA 94279-0070
Phone: 888-324-2798 toll-free
916-324-2798
Fax: 916-323-3319

FIELD OFFICES

City	Area Code	Number	City	Area Code	Number
Bakersfield	661	395-2880	San Francisco	415	356-6600
Culver City	310	342-1000	San Jose	408	277-1231
El Centro	760	352-3431	San Marcos	760	510-5850
Eureka	707	445-6500	Santa Ana	714	558-4059
Fresno	559	248-4219	Santa Rosa	707	576-2100
Kearny Mesa	858	636-3191	Stockton	209	948-7720
Laguna Hills	949	461-5711	Suisun City	707	428-2041
Long Beach	562	901-2483	Van Nuys	818	904-2300
Norwalk	562	466-1694	Ventura	805	677-2700
Oakland	510	622-4100	West Covina	626	480-7200
Rancho Mirage	760	346-8096	Offices for Out-of-State Accounts		
Redding	530	224-4729	Chicago, IL	312	201-5300
Riverside	909	680-6400	Houston, TX	281	531-3450
Sacramento	916	227-6700	New York, NY	212	697-4680
Salinas	831	443-3003	Sacramento, CA	916	227-6600
San Diego	619	525-4526			

EXHIBIT 1

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SAMPLE MOBILEHOME PURCHASE AND SALE TRANSACTION***Mobilehome Residence Not on Permanent Foundation System*****TRANSACTION DETAILS**

	COST TO DEALER	SELLING PRICE TO OCCUPANT
Mobilehome unit <i>(including refrigerator)</i>	\$ 20,000	\$ 25,000
Delivery charge to dealer by common carrier	500	500
Redwood decking <i>(anchored in cement)</i>	2,500	3,000
Patio awning <i>(attached by auger)</i>	2,000	2,500
Window Awning <i>(attached only to mobilehome)</i>	450	540
Labor to install window awning	50	60
Skirtings	950	1,180
Labor to install skirtings	50	70
Landscaping	2,000	2,500
Cabana Room to be placed on jacks and pads <i>(not part of manufactured mobilehome)</i>	2,000	2,500
Labor to install Cabana Room	100	150
Subtotals	\$ 30,600	\$ 38,000
Setup Labor Charges By Outside Contractor:		
Installing Carpets	\$ 150	\$ 200
Joining Halves	300	400
Jacks and Pads	100	133
Other Setup Labor	950	1,267
Total Setup Charges by Contractor	\$ 1,500	\$ 2,000
Total Charges	\$ 32,100	\$ 40,000

COMPUTATION OF MOBILEHOME DEALER'S TAX LIABILITY

Mobilehome Items Subject to Tax measured by 75 percent of Cost:

Mobilehome unit (<i>including refrigerator</i>)	\$	20,000	
Add: Labor to joint halves		300	
Labor—Install carpets		150	
Total Cost —Complete mobilehome	\$	20,450	
Amount subject to tax ($75\% \times \$20,450$)	\$15,337.50		(A)
Tax ($6\% \times \$15,337.50$)	\$	920.25	

^a Retail Sales Portion of Transaction:

Window awning	\$	540	
Skirtings		1,180	
Cabana Room		2,500	
Jacks and Pads		133	
Total	\$	4,353	(B)
Tax ($6\% \times \$4,353$)	\$	261.18	(C)

SAMPLE SALES INVOICE TO THE DEALER'S CUSTOMER OF MOBILEHOME RESIDENCE

Double-wide mobilehome unit	\$	25,000	
Delivery charge		500	(D)
Accessories (<i>awnings, skirtings, cabana, jacks and pads</i>)		4,353	
Labor to install accessories		280	
Improvements to location (<i>decking, patio awning, and landscaping</i>)		8,000	(E)
Setup (<i>net of charges for jacks and pads [\$2,000-\$133]</i>)		1,867	
Total	\$	40,000	
6% Sales tax on accessories	\$	261.18	(C)
TOTAL INVOICE	\$	40,261.18	(F)

^a If the mobilehome was attached on a permanent foundation, the installer of accessory items that are affixed to the mobilehome or directly affixed to realty is a construction contractor. See Regulation 1521 for the application of tax to construction contractors.

EXHIBIT 1

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SAMPLE WORKSHEET FOR SALES AND USE TAX RETURN**TAX FORM
LINE ITEM**

1	Total Sales	\$ 40,261.18	(F)
2	Purchases subject to use tax	<u>15,337.50</u>	(A)
3	TOTAL	\$ 55,598.68	
	Deductions:		
6	* Nontaxable labor	\$ 1,547.00	(G)
9	Sales tax included in Line 1	261.18	(C)
10	** Exempt mobilehome sale	25,600.00	(H)
	Delivery Charge	500.00	(D)
	Lump-sum Improvements Contracts	<u>8,000.00</u>	(E)
	TOTAL DEDUCTIONS	\$ 35,908.18	
12	Amount Subject to state and local tax (3-11)	\$ 19,690.50	
PROOF:	Portion subject to use tax <i>(75% x \$20,450)</i>	\$ 15,337.50	(A)
	Retail sales subject to sales tax at 100%	<u>4,353.00</u>	(B)
	TOTAL TAXABLE AMOUNT	\$ 19,690.50	
	* Labor to install accessories	\$ 280.00	
	Exempt portion of setup labor	<u>\$ 1,267.00</u>	
	Total nontaxable labor	\$ 1,547.00	(G)
	** Mobilehome unit	\$ 25,000.00	
	Add: Labor to joint halves	400.00	
	Labor—Install carpets	<u>200.00</u>	
	Total Retail—Complete mobilehome	\$ 25,600.00	(H)